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PROGRESS REPORT ON THE IMPLEMENTATION OF AGREED RECOMMENDATIONS OF THE COMMISSION

Prepared by the UNCTAD secretariat

Executive summary

In accordance with paragraph 24 of the guidelines on the efficiency and functioning of the UNCTAD intergovernmental machinery, adopted by the Trade and Development Board at its sixteenth executive session (decision 446 (EX-16) of 16 February 1998), the secretariat presents herewith a progress report on the implementation of agreed recommendations addressed to the UNCTAD secretariat at the fifth session of the Commission.

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Agenda item 3: Major agricultural concerns of developing countries: Impact of the reform process in agriculture on LDCs and net food importing developing countries and ways to address their concerns in multilateral trade negotiations

1. *"Within the mandate given in the UNCTAD X Bangkok Plan of Action (TD/390), in particular its paragraphs 132 and 133, the Commission recommends that UNCTAD provide analysis and technical assistance to developing countries with a view to facilitating their effective participation in the WTO negotiations on agriculture. In this regard attention should be given to the special concerns of LDCs and NFIDCs."*

2. *"Technical assistance from UNCTAD and other international organizations is required in analysing information on agricultural trade policies of other countries to support developing countries, particularly LDCs and NFIDCs, in the current WTO negotiations on agriculture and in negotiations on accession to the WTO."*

3. **Action:** UNCTAD has provided developing countries, including LDCs and NFIDCs, with information and analysis with regard to the ongoing negotiations on agriculture through international, regional or national seminars and workshops organized by UNCTAD or by other institutions, including ECA, ESCWA and SELA. During the period under review, technical assistance with regard to negotiations on agriculture in the WTO accession process has been provided to the following countries: Algeria, Bhutan, Cambodia, the Former Yugoslav Republic of Macedonia, the Lao People's Democratic Republic and Nepal.

4. *"Based on the available documentation and quantification of domestic and export support measures and market access conditions, UNCTAD, working with FAO and other international organizations, should provide the statistical and analytical background needed to support developing countries in the negotiations, and should assess the impact of support measures and market access restrictions on the competitiveness of exports of interests to developing countries, particularly to LDCs and NFIDCs, at the commodity and country levels."*

5. **Action:** UNCTAD continues to undertake activities with regard to documentation and quantification of "market access commitments" within the framework of the **TR**ade **A**nalysis and **IN**formation **S**ystem (**TRAINS**), and the **A**gricultural **M**arket **A**ccess **D**atabase (**AMAD**). UNCTAD is one of the founding members of the **AMAD** project, which aims to provide statistical information on WTO-bound and applied MFN rates for agricultural products as well as on tariff rate quotas (TRQs). **AMAD** was created through a cooperative effort by seven international organizations and institutions, including FAO, OECD and the World Bank. The database is open to all users, free of charge, on the AMAD homepage www.amad.org. With respect to information on domestic support and export subsidies, the UNCTAD secretariat is in the process of collecting relevant information to be incorporated in the **A**gricultural **T**rade **P**olicy **S**imulation **M**odel (**ATPSM**). In addition, the Infocomm portal (www.unctad.org/infocomm) provides statistical and analytical information on a number of agricultural commodities. The usefulness of this service is reflected in the fact that it has

received the largest number of visits of all UNCTAD websites. Work has started on the publication of the UNCTAD Commodity Yearbook.

6. *"UNCTAD should analyse the impact of the Agreement on Agriculture on LDCs, NFIDCs and small island developing countries in agricultural trade and should develop a specific action plan."*

7. **Action:** The impact of the Agreement on Agriculture on LDCs, NFIDCs and small island developing countries was among the topics discussed at the workshops on "horticulture sector diversification" for English- and French-speaking African countries, the workshop on "commodity export diversification and poverty reduction" for Asian LDCs and transition economies, and the workshop on "prospects and challenges for commodity-based development in the South Pacific" for small island developing countries. Information regarding these workshops can be found at www.unctad.org/infocomm/diversification.

8. *"UNCTAD should analyse the impact of the erosion of preferences and the process of adjustment from dependence on preferential market access in the light of MFN tariff liberalization."*

9. **Action:** In coordination with the Commonwealth Secretariat, UNCTAD made a substantive and financial contribution to the preparation of a study on "Alternative special and differential arrangements for small economies", which looks into the agricultural trade environment surrounding developing countries, including small island developing States.

10. *"UNCTAD should identify, in accordance with Article 20 of the Agreement on Agriculture, concrete measures to be included under the concept of special and differential (S&D) treatment, which could be a comprehensive way to help developing countries to meet their development objectives using, among others, trade policy measures."*

11. **Action:** Work on the relevant issues is under way.

12. *"UNCTAD is requested to provide technical assistance to enhance negotiating capacity of developing countries, with a particular view to improving: analytical capacity to evaluate the likely implications of existing proposals on their economies; and effective coordination between the private sector stakeholders and the trade negotiators."*

13. **Action:** During the WTO negotiations on agriculture, UNCTAD has provided, upon request, developing country negotiators, particularly those from LDCs, with statistical information and analysis to support their preparation of negotiating proposals and their participation in the negotiations.

14. *"UNCTAD should analyse the impact of the provision of tariff-free and quota-free market access to agricultural exports from LDCs and its impact in international trade flows."*

15. **Action:** Two UNCTAD studies, "Improving market access for least developing countries" (UNCTAD/DITC/TNCD/4) and "Duty and quota free market access for LDCs: An analysis of Quad initiatives" (UNCTAD/DITC/TAB/Misc.7), cover the impact of possible tariff-free and quota-free market access on LDCs' agricultural exports.

16. *"With a view to supporting developing countries, in particular LDCs and NFIDCs, in identifying policy options in the WTO negotiations on agriculture, the Commission recommends that UNCTAD, in close coordination with other international organizations, should undertake the following:*

(a) Analyse the possible impact of new developments in world agricultural trade, such as new production technology, world agricultural supply chains, consumer preferences and concerns over food safety in developed country markets;

(b) Analyse the impact of the reform process on key staples of developing countries, with particular attention to policy measures that are required to enhance agricultural productivity, food security, and rural poverty alleviation; and

(c) Analyse ways to reduce the cost disadvantages in agricultural trade (due particularly to the transport cost) faced by the land-locked developing countries and small island developing States."

17. **Action:** In the context of work on commodities, a total of six regional and subregional workshops (two for Africa, one each for Central America, Asian LDCs and transition economies, Pacific island countries and Central Asian countries) and one national workshop for Cuba, with a total of more than 300 participants, were held between the end of 2000 and November 2001. More workshops are planned. These workshops covered all the three items mentioned above. The studies prepared as well as the results of these workshops can be found on the website http://www.unctad.org/infocomm/Diversification/index.htm. Additional reports which are related to these issues are: "Effets des fusions, acquisitions, co-entreprises et autres formes de partenariat sur la diversification, en particulier dans le secteur de l'industrie alimentaire" (UNCTAD/DITC/COM/24); "Value chain analysis and strategies for foreign market penetration in the food sector: A focus on fresh fruits and vegetables" (UNCTAD/DITC/COM/33); "Food quality standards: Definition and role in international trade" (UNCTAD/DITC/COM/34); and "Strategies for diversification and adding value to food exports: A value chain perspective" (UNCTAD/DITC/COM/TM/1). Two Commodity Discussion Forums have been organized on "What can value chain analysis reveal about the unequal distribution of gains from globalizations?" and "Fair trade: The potential of combating poverty in commodity-dependent countries". These brought together government representatives, and experts from the private sector, specialized development agencies, NGOs and academia for an open discussion and exchange of views.

18. *"In light of the ongoing examination at WTO of possible means of improving the effectiveness of the implementation of the Marrakesh Decision (WT/L/384), Governments will*

provide substantive inputs to facilitate this examination. UNCTAD is requested to provide technical and analytical material to developing country Governments to assist them in their participation in this exercise."

19. **Action:** During the period under review, UNCTAD has not received any specific requests from Governments for technical and analytical inputs.

Agenda item 4: **Analysis of ways to enhance the contribution of specific services sectors to the development perspectives of developing countries: National experiences with regulations and liberalization: Examples in the construction services sector and its contribution to the development of developing countries**

20. *"UNCTAD should promote establishment of linkages among all the stakeholders in the international market for construction services through continued dialogue between the relevant professional associations, multilateral and financial institutions and bilateral and regional funding agencies, and development agencies from developed countries."*

21. **Action:** The secretariat has presented the report of the Expert Meeting on Construction Services to national professional associations in developing countries, namely Botswana, Cuba, Colombia, Egypt, Kenya, Mauritius, Paraguay and Pakistan, and also communicated it to the International Union of Architects. The report was also sent to the World Bank, and the regional banks in Asia, Africa and Latin America, drawing their attention to the main concerns underlined by UNCTAD experts concerning the weak participation of firms from developing countries in international tendering, in particular the stringent pre-qualification requirements of multilateral funding institutions and the negative impact of the tied aid practices, as well as the need for harmonization of rules for procurement in order to enhance transparency and fairness in bidding procedures. As an important part of the work at the national level in a number of developing countries, different stakeholders in the construction sector were brought together at round tables to discuss their concerns as importers and exporters of construction and related services. This item has been taken up in all the national and regional meetings on services in developing countries.

22. *"UNCTAD should work with the United Nations Commission on International Trade Law (UNCITRAL) to assess the feasibility of drafting a model law/model laws which would support the development and efficient functioning of domestic construction services sectors."*

23. **Action:** The secretariat is in consultations with UNCITRAL on how the mandate to prepare a model law could be brought into the work programme of UNCITRAL. The model law is expected to provide guiding principles to developing countries for establishing the appropriate institutional and legal frameworks to effectively monitor and regulate the construction services sector from a trade and development perspective. Such frameworks should provide for transparency and effective recourse against anti-competitive practices, as well as for an effective arbitration mechanism in settling disputes.

24. *"UNCTAD should include legislation and regulations affecting trade in construction services in its Measures Affecting Service Trade (MAST) information database and disseminate the information through the Internet."*

25. **Action:** The new software with Internet application has been developed for the entry of data and dissemination of the MAST. Further progress in the development of the information database will depend on the availability of adequate human and financial resources.

26. *"UNCTAD should also make available statistics through the Internet on trade in construction services and related sectors so as to help negotiators of developing countries to make an assessment of trade in services and use its results in negotiations."*

27. **Action:** UNCTAD has made available the Internet-based dissemination of statistics, including in the area of construction services, at http://stats.unctad.org. Consideration is being given to improving the availability of services statistics and helping developing countries assess their trade in services as part of the contribution by UNCTAD to the WTO symposium on the assessment of trade in services.

28. *"UNCTAD should continue supporting the participation of the developing countries in the area of multilateral trade negotiations on trade in services by assisting them to identify and address barriers to their exports of construction services. UNCTAD should further provide the analytical background to developing countries to assess the negotiating proposals presented to the WTO process on the liberalization of services."*

29. **Action:** UNCTAD has organized a number of national and regional seminars in Geneva and in developing countries to help the latter identify national interest as well as effective barriers in the area of trade in services, including in construction services. The single proposal submitted by an African country in the context of the GATS negotiations has emanated from one such meeting organized by UNCTAD. In addition, the findings contained in the documents related to the Expert Meeting were reflected in other proposals, including those by developing and developed countries. The experience derived from the UNCTAD Expert Meeting is relevant to developing countries' preparations for the next stage of the GATS negotiations, i.e. in formulating the requests and offers and in the analysis of the negotiating proposals. In the context of the Commercial Diplomacy Programme, the training module on Trade in Services has been completed, in which issues specific to developing countries as identified by UNCTAD experts in the area of trade in construction services have been addressed. Furthermore, the presentations made by national and international experts during the Expert Meeting on Construction Services are to be compiled into a single publication.

30. *"Through the CAPAS programme, UNCTAD should assist African countries in identifying the scope and likely impact of further liberalization in this sector and the potential for increase of trade among developing countries taking into account their GATS commitments and their development objectives."*

31. **Action:** African countries have acknowledged on numerous occasions the role of UNCTAD in assisting developing countries in building their understanding of the GATS and in linking it with the policy-making process through CAPAS. Notably, the newly established research network in Southern Africa has been based on the CAPAS experience and included among its staff CAPAS researchers. At the present time, the principles of CAPAS are implemented in the regional integration negotiations on services in SADC. The new stage of CAPAS is expected to link the experience accumulated during the earlier phases of CAPAS so that they could feed into the GATS negotiations and establish the link between Geneva-based negotiators and capital-based policy-making. However, CAPAS is facing difficulties in obtaining funding for implementing this new phase of the programme. Availability of necessary funds would enable better participation of the African countries in the GATS negotiations.

Agenda item 5: The sustainable use of biological resources: Systems and national experiences for the protection of traditional knowledge, innovations and practices

32. *"UNCTAD, within its mandate, as defined in paragraphs 147 and 106 of the Bangkok Plan of Action (TD/390), should in the area of traditional knowledge:*

(a) Conduct analytical work and organize regional workshops to exchange national experiences and examine strategies on TK-related issues, in cooperation with WIPO, CBD and regional organizations. In this context, the Commission noted the special references made to cooperation with the OAU;"

33. **Action:**

- Traditional knowledge has been given special attention in capacity-building projects. For example, in the United Kingdom-funded project on enhancing research and policy-making capacity in trade, environment and development issues in ten developing countries, traditional knowledge was discussed at two workshops (Havana, May 2000, and Dar es Salaam, April 2001). A number of country papers on the topic were prepared by workshop participants, and the secretariat produced a synthesis document of experiences with protecting TK in the ten participating countries. The project's conclusions on TK and biodiversity issues were presented by Brazil to the WTO's Committee on Trade and Environment.

- Under the BIOTRADE initiative, guidelines on legal issues relevant to trade of biodiversity products and services, including traditional knowledge, were prepared. In addition, an inventory document was finalized on legal and non-legal instruments in protect the traditional knowledge of indigenous communities of the Andean region.

- Traditional knowledge was Viet Nam also emphasized in UNCTAD/UNDP country projects in India and Viet Nam. The book prepared under the latter project, entitled *Greening Trade in Viet Nam*, contains three papers on traditional knowledge, including two on traditional medicine. A draft paper on traditional medicine in India has been

prepared under the Indian project. The Minister of Commerce of India has decided to host, jointly with UNCTAD, a seminar on traditional knowledge in March 2002.

- Protecting traditional knowledge is one of the main topics considered by the UNCTAD/ICTSD capacity-building project on TRIPS and Development. This project, which started in July 2001, aims to improve understanding of the development implications of the TRIPS Agreement and to strengthen the analytical and negotiating capacity of developing countries so that they are better able to participate in intellectual property rights (IPR)-related negotiations in an informed fashion in furtherance of their sustainable development objectives. A draft policy paper has been widely circulated for comments.

- In addition to the above, a comprehensive project on "Harnessing traditional knowledge for development and trade" has been developed specifically in response to the Commission's recommendations. It comprises a series of regional and international workshops on specific aspects of TK issues, supported by analytical studies. Donor support is currently being sought.

34. *"(b) Develop further the TrainforTrade module on Traditional Knowledge, Trade and Development;"*

35. **Action**: A module on "Harnessing traditional knowledge for development and trade" has been added to the TrainforTrade Trade, Environment and Development training course series. The module was part of two training workshops on trade, environment and development, held in Cuba from 10 to 12 December 2001 and in Viet Nam from 17 to 19 December 2001.

36. *"(c) Support, in cooperation with WHO and other pertinent organizations, initiatives taken by interested developing countries for capacity-building to identify means to protect and promote the further development of traditional medicine, taking into account environment and biodiversity fields;"*

37. **Action:** As mentioned under (a) above, several papers on traditional medicine were prepared in the context of UNCTAD/UNDP projects. It is envisaged that more work in this area will be undertaken in the context of the project on "Harnessing traditional knowledge for trade and development", described under (a) above.

38. *"(d) Assist on request, member States and indigenous and local communities in exploring policies to harness traditional knowledge for trade and development, including through the UNEP-UNCTAD Capacity Building Task Force (CBTF) on Trade, Environment and Development and the Biotrade Initiative;"*

39. **Action:**

- Under the BIOTRADE Initiative, national and regional programmes were further developed addressing issues related to legal and policy frameworks, bio-business

development and trade promotion, development of sustainability criteria, information systems and financial tools. Furthermore, South-South cooperation was fostered through regional BIOTRADE workshops, allowing the exchange of information and concrete experiences of the Initiative's country programmes.

- Under the CBTF, a special capacity-building programme for LDCs was developed for the LDC-III Conference in May 2001. It identifies several key areas of work, including harnessing traditional knowledge for trade and development. In addition, Ethiopia submitted to the CBTF a "Capacity building project on documenting, utilizing and protecting indigenous knowledge, practices and innovations in Ethiopia". These activities will be implemented as funding becomes available.

40. *"(e) Assist, in cooperation with relevant international organizations, including the ITC, developing countries, where appropriate, with the commercialization of TK-based products, including the creation of niche markets for such products;"*

41. **Action:** With the aim of promoting national and international trade of biodiversity products, BIOTRADE, together with the ITC, is interested in developing a trade facilitation programme for these products. This programme includes cooperation with the Dutch Centre for Import Promotion (CBI), the Swiss Import Promotion Agency (SIPPO) and the FAO, as well as national and regional BIOTRADE partners in the Andean, Amazonian and African regions.

42. *"(f) Assist interested developing countries in exploring ways for the protection of TK, recognizing and supporting the ongoing activities at WIPO;"*

43. **Action:** It is envisaged that work in this area will be undertaken in the context of the project on "Harnessing traditional knowledge for trade and development", described under (a) above, and in the CBTF.

44. *"(g) Publish the papers submitted to the Expert Meeting, including on the Internet."*

45. **Action:** A large number of the expert papers have already been made accessible on UNCTAD's Trade, Environment and Development website (http://www.unctad.org/trade_env/). The papers have been revised and streamlined to appear in a monograph to be published in early 2002.

46. *"The UNCTAD secretariat is also encouraged to support, as appropriate, the work of the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore and the CBD Working Group on the Implementation of Article 8(j) and Related Provisions. The Commission welcomes cooperation between UNCTAD and UNCCD."*

47. **Action:**

- The UNCTAD secretariat participates actively in the main intergovernmental forums discussing TK. Regarding the Convention on Biological Diversity, the secretariat participated in the meeting of the Ad Hoc Working Group on Access and Benefit Sharing (Bonn, October 2001) and will participate in the meeting of the Ad Hoc Working Group on Article 8(j) (Montreal, February 2002) and the Conference of the Parties (April 2002), travel funds permitting. In addition, the secretariat sent a contribution entitled "BIOTRADE Initiative of UNCTAD: Current activities and instruments relevant to the sustainable use of biodiversity" to the CBD Workshop on Incentive Measures and Sustainable Use of Biodiversity (Montreal, September 2001).

- As for WIPO, the secretariat has participated in the first and second sessions of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (Geneva, April and December 2001). At the WTO, the secretariat attends on a regular basis meetings of the Committee on Trade and Environment and the TRIPS Council. It also participated in a workshop on protecting traditional medicine organized by WHO (December 2000) and a conference on the relationship between TRIPS and CBD organized by Brazil in 2001. The UNCTAD secretariat is in regular contact with the staff dealing with traditional knowledge in the secretariats of CBD, WIPO, WTO, FAO, WHO and ITC. Initial contact with the UNCCD secretariat has been made.

Agenda item 6: Analysis of market access issues facing developing countries: Impact of anti-dumping and countervailing actions

48. *"UNCTAD, within its mandate, as defined in paragraphs 132 and 106 of the Bangkok Plan of Action (TD/390) should design and implement upon request and within available resources, a technical assistance programme with a view to supporting developing countries to develop improved understanding of anti-dumping and countervailing duty rules and procedures and capacity to administer anti-dumping and countervailing remedies."*

49. **Action:** Within the context of the Commercial Diplomacy Programme (CDP), a draft Training Module on Anti-Dumping and Countervailing Practices has been prepared. In 2001, UNCTAD experts have participated as resource persons in several training courses on these subjects organized by other international organizations. During the same period, at several national workshops and seminars organized under the GSP Programme, anti-dumping and countervailing measures together with other market access issues were also discussed. The draft Module was tested in some of these events and the feedback from the participants has been taken into account. The process to finalize the Module is under way with a view to making it available to the related UNCTAD training activities in 2002.